

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 435

March 2023

REMINDER OF ORDER OF BUSINESS

April

- 1 On or before April 1 is the last regular day for filing applications for tax exemption by Churches, Educational and Charitable organizations. (IC 6-1.1-11-3)
- On or before April 1, of each even numbered year, the County Auditor shall provide to the County Assessor a list by taxing district of property for which a tax exemption was in effect for the immediately preceding year. (IC 6-1.1-11-5)
- 7 Good - Friday - Legal Holiday (IC 1-1-9-1)
- 18 & 20 State Board of Accounts called meeting for County Recorders - Indianapolis
- 30 Last day to file quarterly report of federal withholding tax with Director of Internal Revenue Service.

May

- 1 Prepare report of school funds to Auditor of State and make payment of principal and interest due to Treasurer of State on the Common and Permanent Endowment Funds, and pay the Treasurer of State all fines and forfeitures on hand April 30, 2023, as shown in this report. (IC 20-42-1-6)
- 10 First installment of property taxes due. (IC 6-1.1-22-9)
- 11 State Board of Accounts called Spring Quadrant meeting for County Auditors - Virtual
- 15 Due date for personal property tax returns and filing for exemption. (IC 6-1.1-3-1.5)
(IC 6-1.1-3-7)
- 16 State Board of Accounts called Spring Quadrant meeting for County Auditors – Noblesville
- 17 State Board of Accounts called Spring Quadrant meeting for County Auditors – Plymouth
- 23 State Board of Accounts called Spring Quadrant meeting for County Auditors – Lawrenceburg
- 24 State Board of Accounts called Spring Quadrant meeting for County Auditors – Vincennes
- 29 Memorial Day – Legal Holiday (IC 1-1-9-1)

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REMINDER OF ORDER OF BUSINESS

(Continued)

June

- 1 Last date for filing County Highway Annual Operational Report with the State Board of Accounts and other governmental agencies. (IC 8-17-4.1-7)
- On or before this date the County Treasurer shall search the records to ascertain if person so certified is delinquent in payment of Property Taxes and certify to Auditor of State and state agencies the names of state employees owing delinquent taxes. (IC 6-1.1-22-14) (IC 6-1.1-22-16)
- County Treasurer to prepare a list of persons owing delinquent taxes and believed to have money due from Auditor of State, Indiana Department of Transportation or any state institution or state school and furnish the list to those agencies on or before June 1. (IC 6-1.1-22-16)
- 20 On or before June 20th and December 20th of each year, the county auditor and the county treasurer shall meet in the office of the county auditor. Before each semi-annual meeting, the county auditor shall complete an audit of the county treasurer's monthly reports required under IC 36-2-10-16. In addition, the county auditor shall: (1) prepare a certificate of settlement on the form prescribed by the state board of accounts; and (2) deliver the certificate of settlement to the county treasurer at least two (2) days before each semi-annual meeting. (IC 6-1.1-27-1(a))
- 27 & 28 State Board of Accounts called meeting for Clerk of the Circuit Courts – Indianapolis
- 30 Immediately after each semi-annual settlement, the county auditor shall send a copy of the certificate of settlement and a statement of the distribution of the taxes collected to the state auditor. On or before June 30th and December 31st of each year, the county treasurer shall pay to the state treasurer the money due the state as shown by the certificate of settlement. (IC 6-1.1-27-3)
- On or after January 1 of each calendar year in which a tax sale will be held in a county and not later than fifty-one (51) days after the first tax payment due date in that calendar year, the County Treasurer shall certify to the county auditor a list of real property eligible for tax sale. (IC 6-1.1-24-1(a))

SHERIFF'S INMATE TRUST AND PETTY CASH

Indiana Code 36-8-10-22 requires that the sheriff hold in trust separately for each inmate any money received from that inmate or on the behalf of the inmate. Upon discharge or release the sheriff is to pay to the inmate or legal guardian any balance remaining in the inmate's trust fund. Often the balance is very small, ranging from a few cents to a few dollars. The warrants given to the inmates for the balances often go uncashed. We have been asked if a policy may be set whereby under a certain dollar limit the inmate does not receive this remaining balance. There is no statutory authority to do so.

We have also been asked if the payment may be in the form of cash instead of warrant for the distribution of the balance under a certain dollar limit. This may be done through the petty cash fund process. This would require authorization of the petty cash fund from the county council, a policy addressing the maximum dollar amount the balance may be to be paid using petty cash, and a voucher that provides at a minimum the date, dollar amount, identification of the inmate, and inmate's signature.

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SHERIFF'S INMATE TRUST AND PETTY CASH (Continued)

It should be remembered that the vouchers are a reconciling item and that the cash and any vouchers should always equal the total petty cash fund. To properly account for the petty cash fund when part of the inmate trust fund, a separate card identified as the petty cash fund should be maintained as is maintained for each of the inmates' trust funds. This way the total individual ledgers will be equivalent to the control ledger.

FACSIMILE TRANSMISSION FEES

We have been asked several times about facsimile machine transmission fees.

Currently, IC 5-14-3-8 (d) authorizes the fiscal body to establish a fee schedule for the certification or copying of documents. Prior to July 1, 2007 this subsection allowed for the inclusion of a facsimile machine transmission fee. Effective July 1, 2007 the reference to the inclusion of a fee for facsimile machine transmissions was deleted from this subsection and so it is our position that this subsection no longer supports such a fee.

IC 5-14-3-8(f) states in part: "Notwithstanding subsection... (d)..... a public agency shall collect.... facsimile machine transmission fee... that is specified by statute or is ordered by a court."

We are not aware of any statute that specifies a facsimile machine transmission fee.

Per State Court Administration, Trial Rule 81(A) does not allow for a standing court order for facsimile fees.

As to the amount of a facsimile machine transmission fee which a court may order on an individual basis, State Court Administration recommends that it should adopt a fee amount that is reasonable and substantially in conformance with those authorized by existing statutes. The parameters specified in IC 5-14-3-8(d) could be used as a guide. A court may decide that a reasonable facsimile fee may be so small as to not be worth collecting.

In an audit, if a facsimile machine transmission fee is collected we would look for either a specific statute authorizing the fee or a court order.

INSPECTION OF COUNTY RECORDS

Most records of public offices are public property and may be examined by any citizen of the county, unless the law specifically provides they be confidential. Any person may inspect and copy the public records of any public agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by Statute.

A public agency may not deny or interfere with a person's right to inspect or copy public records. The public agency shall either provide the requested copies to the person requesting such copies or allow the person to make copies on the agency's equipment or on his own equipment. (IC 5-14-3-3) The public agency may charge a fee for such copies. If the public record is a duplicate of a computer tape or disc, microfilm, or other similar record, the fee to be charged should be set in accordance with IC 5-14-3-8.

IC 5-14-3-4 contains a listing of those records which are (or could) be held to be confidential. All county officials are urged to review this section of the law to ensure that the county's policy on such records is in compliance with the Statute.

Questions regarding access to public records should be directed to the States' Public Access Counselor at (800) 228-6013.

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LEGAL ADVERTISING FOR RECEIVING BIDS

Whenever bids are to be received, a legal notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least seven (7) days before the date the bids will be received. (IC 5-3-1-2)

This requirement includes bids received for all supplies, goods, machinery and equipment to be purchased or leased, and public works

COMPENSATION FROM TITLE IV-D INCENTIVE FUNDS

IC 31-25-4-23 states that Title IV-D Incentive payments shall be distributed as follows:

- (1) 22.2% to the Title IV-D Incentive Fund;
- (2) 33.4% to the operating budget of the prosecuting attorney; and
- (3) 22.2% to the operating budget of the county clerk.

In the case of *Plummer v. Hegel* App. 2 Dist. 1989, 535 N.E.2d 568, the court held that the prosecuting attorney was entitled to receive incentive payments to encourage enforcement and collections of child support, as additional salary without the county council's approval.

IC 31-25-4-23 (c) states in part that..."the amounts received as incentive payments may not, without the approval of the county fiscal body, be used to increase or supplement the salary of an elected official."

IC 36-2-7-2 states that the compensation fixed for county officers and employees is in full for all governmental services and in lieu of all fees, per diems, penalties, costs, interest, forfeitures, percentages, commissions, allowances, mileage, and other remuneration.

Based on the two above cited code sections and the case of *Plummer v. Hegel*, it is the audit position of this department that deputies and employees in the offices of the prosecuting attorney and the clerk of the circuit court could be paid additional salary from Title IV-D Incentive Funds without prior approval of the county council.

PAYMENT TO BANK OF COMPENSATION DUE EMPLOYEES

IC 5-10-9 constitutes full payment for the amount due the employee. The amount to be sent to the bank is the "net" pay for the employee. A copy of each report sent to a bank or trust company must be retained on file with the corresponding payroll claim in the auditor's office for reference and audit purpose. When a "direct deposit" system is used in the payroll process, the balance of the payroll process would not change except that each employee not receiving a payroll check must be provided a non-negotiable statement of earnings and deductions (Deposit Advice) for each payroll period. Recap sheets for each depository, if applicable, should be maintained indicating direct deposit. Individual wage assignments should be kept on file to support direct deposits.

DISINTERMENT, DISENTOMBMENT, AND DISINURNMENT

IC 23-14-57-1(c) does not state that this recording is to be done without a fee being charged. Therefore, our position is that the recording fees as stated in IC 36-2-7-10 apply.

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PAYMENT BY PUBLIC EMPLOYERS OF GROUP HEALTH INSURANCE PREMIUMS

Official Opinion 2002-5 issued October 11, 2002 by the Attorney General of the State of Indiana states in the Conclusion, "The language of IND. CODE 5-10-8-2.6 unambiguously states that public employers may pay a part of the cost of group health insurance premiums for their employees. Rules of statutory construction hold that an unambiguous statute must be held to mean what it plainly expresses. N. Miami Educ. Ass'n, 746 N.E.2d at 382. Therefore, because the statute provides that employers may only pay a part of the cost, this language cannot be expanded or construed to allow employers to pay the full amount. The existence of a collective bargaining agreement allowing employers to pay the full amount would not alter this conclusion, as courts will not enforce contract terms that run contrary to statute or public policy. Ahuja, 675 N.E. 2d at 707.

TRANSFERS BETWEEN FUNDS

Governments use fund accounting to account for the financial transactions of their unit. A fund is self-balancing and used to account for money set aside for a specific purpose. The general fund of the unit has many sources of revenue and can be used for any legal purpose of the governmental unit. There can only be one general fund. Special revenue funds, debt service funds, and capital project funds are established to account for specific sources of revenue or specific purposes. Fund accounting provides transparency for the accounting of these specific purposes. Transferring cash between these funds' clouds that transparency.

Transfers should only be done when there is a statutory authority to do so. An example would be IC 36-1-8-5 and IC 36-1-8-5.1 which authorizes transfers to the Rainy Day fund. The statute specifies what transfers may be made into and out of the fund and the limits on those transfers. It is necessary to review the statute for the fund before making any transfers. The Uniform Chart of Accounts - "Fund and Account Descriptions" lists the statutory funds and the specific code that establishes how the fund may be used. The statute will also tell you if there is authority to transfer to another fund, and when that transfer is allowed. If the statute does not specifically authorize a transfer from the fund, then no transfers should be made from the fund.

CUMULATIVE FUNDS

We receive numerous questions every year about cumulative funds and how they are used. The county can levy a tax under procedures established under IC 6-1.1-41 through the creation of a cumulative fund set out in several different statutes. The following is a list of funds and their appropriate statutes:

<u>Fund Number</u>	<u>Fund Name</u>	<u>Authorizing Statute</u>
1135	Cumulative Bridge	IC 8-16-3
1136	Cumulative Building	IC 36-9-16-2
1137	Cumulative Building Hospital	IC 16-22-5
1138	Cumulative Capital Development	IC 36-9-14.5
1139	Cumulative Capital Improvement	IC 36-9-16-3
1140	Cumulative Courthouse	IC 36-9-14
1141	Cumulative Drainage	IC 36-9-27-100
1142	Cumulative Jail	IC 36-9-15
1143	Cumulative Voting System	IC 3-11-6-13

The statute can define the purpose of the tax levy or may require that an ordinance is established to create the fund along with defining the purpose for which the fund was established. The cumulative capital development fund for example allows for several purposes in statute but requires an ordinance to state which purposes the county will be using.

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CUMULATIVE FUNDS (Continued)

For cumulative funds, the tax rate is established for a specific purpose and the funds must be used for that purpose. When the purpose is accomplished, and the tax rate is rescinded the dormant funds may be transferred to the General fund.

LOCAL ASSISTANCE AND TRIBAL CONSISTENCY FUND

The American Rescue Plan appropriated money to the Treasury in order to provide payments to eligible counties for use on any governmental purpose with the exception of lobbying purposes. These funds may be treated in a similar manner to the way they treat funds generated from their own local revenue. Programs, services, and capital expenditures that are traditionally undertaken by a government are considered to fulfill a "governmental purpose."

Many counties received a portion of the funds at the end of 2022 and are expected to receive another portion early in 2023. This is a separate program from the State and Local Fiscal Recovery Funds (SLFRF) and should be placed in a separate fund within the American Rescue Plan fund range 8950 – 8975. This advance grant has an assistance listing number assigned of 21.032.



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AMOUNTS AUTHORIZED TO BE RECEIVED BY SHERIFFS FOR BOARD OF PRISONERS

As required by Ind. Code 36-8-10-7, The State Examiner is required to fix the exact amount per meal which the sheriff of each county receives for feeding prisoners, including federal prisoners in the sheriff's custody, for a period of one year. Amounts received by the sheriff from the Federal government for board and care of Federal prisoners shall be paid into the County General Fund.

In determining and fixing the amount per meal, the use of wholesome food in quantities and varieties necessary for the preservation of the health of the prisoners is contemplated. All expenses related to preparing and serving meals, except for the costs of food, shall be borne by the county.

The amounts fixed are for meals served such prisoners during each respective month. Not more than three meals at county expense are to be served to any one prisoner in any one day.

The term "month" shall mean a period of time beginning April 15, 2023 and thereafter ending on the fourteenth (14th) day of each succeeding month. Claims for meals for the month beginning December 15th will be paid from the appropriation for the succeeding year.

For number of meals served during a period of one month, per meal:

In counties having a population of less than 20,000	\$2.00
In counties having a population of 20,001 to 40,000.	\$2.00
In counties having a population of 40,001 to 60,000.	\$2.00
In counties having a population of 60,001 to 80,000.	\$1.91
In counties having a population of 80,001 to 100,000.	\$1.63
In counties having a population of 100,001 to 200,000.	\$1.48
In counties having a population of 200,001 or over.	\$1.38

The following counties will not be allowed the amounts authorized above:

- Allen
- Lake
- Marion
- Vanderburgh

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

Dated this 15th day of March 2023